

AO 91 (Rev. 02/09) Criminal Complaint

United States District Court

for the
Western District of New York

United States of America

v.

BRANDON G. UBER

Defendant



Case No. 24-mj-5166

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about May 27, 2024, the exact date being unknown, in the Western District of New York, the defendant, BRANDON G. UBER, did:

- (1) knowingly distribute child pornography, as defined in Title 18, United States Code, Section 2256(8), that had been shipped and transported using any means and facility of interstate and foreign commerce, and that had been shipped and transported in and affecting interstate and foreign commerce by any means, including by computer;

all in violation of Title 18, United States Code, Section 2252A(a)(2)(A).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

Complainant's signature

Jacob V. Stahley, Task Force Officer, HSI

Printed name and title

Sworn to before me and signed telephonically.

Date: August 22, 2024

Judge's signature

City and State: Buffalo, New York

HON. MICHAEL J. ROEMER, USMJ

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Jacob V. Stahley, being duly sworn, depose and say:

1. I am currently assigned to the Special Agent in Charge, Buffalo, New York Office as a Task Force Officer (TFO) for Homeland Security Investigations (HSI). As a TFO, I have participated in investigations including, but not limited to, human trafficking, child exploitation and child pornography. These investigations have included the use of surveillance techniques and the execution of search and arrest warrants. Additionally, I am currently employed as an Investigator with the Chautauqua County Sheriff's Office (CCSO) and have been in that position since November 2017. Prior to that, from December 2009 to November 2017, I was employed as a Road Patrol Deputy Sheriff with the CCSO.

2. I make this affidavit in support of an application for a criminal complaint charging **BRANDON G. UBER** (hereinafter "**UBER**") with a violation of Title 18, United States Code, Sections 2252A(a)(2)(A) [Distribution of Child Pornography].

3. The statements contained in this affidavit are based on my involvement in this investigation, as well as information provided to me by other law enforcement officers involved in this investigation, and upon my training and experience. Because this affidavit is being submitted for the limited purpose of seeking an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that **UBER** did knowingly violate Title 18, United States Code, Section 2252A(a)(2)(A).

4. The National Center for Missing and Exploited Children (hereinafter "NCMEC") is a

private, non-profit organization that serves as a national clearinghouse and resource for law enforcement, families, victims, and the public. Their mission is to help find missing children and assist law enforcement with cases involving child sexual exploitation. As part of their duties, NCMEC prepares CyberTipline Reports (hereinafter "CyberTip") which is developed by NCMEC when an entity, such as an Internet Service Provider (hereinafter "ISP") or Electronic Service Provider (hereinafter "ESP"), or a social networking site, determines something questionable or illegal occurred using their service. The private organization provides NCMEC with any information in their possession, including the questionable files and whether they viewed the files prior to sending to NCMEC. Using publicly available search tools, NCMEC then attempts to locate where the activity occurred based on the information the private organization provides, such as IP addresses. NCMEC then packages the information from the private organization along with any additional information it has, such as previous related CyberTips, and sends it to law enforcement in the jurisdiction where the activity is thought to have occurred.

5. In New York, the entity that NCMEC sends the CyberTip to is the Internet Crimes Against Children (ICAC) Task Force run by the New York State Police, located in Albany, NY.

6. Title 18, United States Code, Section 2258A [Reporting Requirements of Electronic Communication Service Providers and Remote Computing Service Providers] mandates that all electronic communication service or remote computer service providers report all facts or circumstances from which there is an apparent or imminent violation of federal child pornography laws to NCMEC's CyberTipline.

7. MediaLab.AI Inc., operates KIK Messenger (hereinafter "KIK"), which is an ESP and allows users to upload and share images and videos with other individuals. KIK is an app for mobile devices such as tablets and smartphone that allows users to chat and share files or websites

with other users over the Internet. KIK generates user accounts based on usernames, unlike similar services that use phone numbers, which allows KIK users to restrict with whom they communicate. A KIK user can create either a public group or a private group with the KIK Messenger app. To start a private group, a user adds members from a private list of friends or contacts on KIK. A user creates a public group by setting a name, photo, and # (hashtag) designation, which functions as the username of the group. This allows other users on KIK to find and participate in the group by searching for a certain keyword after the # symbol. The user who started the group can also change the name of the groups as it displayed on other users' phones, called the display name.

8. On July 1, 2024, KIK reported to NCMEC an incident of child pornography being located on their server where one user sent videos of child pornography to another user on KIK. In the CyberTipline Report (Report) generated for this incident, it notes that KIK reviewed the video files in question, assigned the videos a category "A1," meaning they depict a prepubescent minor engaged in a sexual act, and also uploaded the videos to NCMEC as part of the Report. In the Report, KIK noted that the following details about the incident and the sender of the videos:

- a. Incident Time: 05-27-2024 07:41:40 UTC
- b. Home Email Address: [XXXXXX]@gmail.com
- c. Screen/User Name: kittyboooooom32
- d. Filename: 5138[...]1973e.mp4
 - i. MD5: dd9c[...]6f652
 - ii. IP Address: 66.24.243.63; Login: 05-24-2024 20:13:34 UTC
- e. Filename: c7fb[...]6c80.mp4
 - i. MD5: b8cf[...]8c31
 - ii. IP Address: 66.24.243.63; Login 05-27-2024 07:41:40 UTC

The Report further noted that there were logins to the kittyboooooom32 account from the same IP Address, 66.24.243.63, between June 6, 2024, to June 30, 2024.

9. On July 17, 2024, in response to the Report set forth above, and after it was learned that Charter Communications was the holder of IP Address 66.24.243.63 during the relevant period, the New York ICAC issued an administrative subpoena to Charter Communications (hereinafter

“Spectrum”) to provide the subscriber information for IP address 66.24.243.63 for June 6, 2024, and June 30, 2024. On July 24, 2024, Spectrum responded that the subscriber for IP Address 66.24.243.63 for June 6, 2024, and June 30, 2024, was under the name: ELSIE UBER, with an address in Jamestown NY, 14701-6822 (hereinafter “SUBJECT PREMISES”).

10. On August 7, 2024, and after the New York ICAC conducted a deconfliction search, the New York ICAC notified HSI in Buffalo that the target of the NCMEC Report may be associated UBER, a current defendant in this District in case number # 23-CR-148-MJR-RJA. Specifically, on January 17, 2023, UBER was charged in a criminal complaint with receipt, distribution, and possession of child pornography, and on December 18, 2023, UBER pled guilty to distribution of child pornography. Sentencing for UBER is currently scheduled for October 2, 2024, and UBER's conditions of release include that he reside at the SUBJECT PREMISES on home detention with GPS monitoring, is prohibited from possession or downloading any pornography, and is prohibited from accessing any internet capable device.

11. On August 8, 2024, HSI Special Agent Bryan Jacobson reviewed the NCMEC CyberTipline Report outlined above, and reviewed the child pornography videos uploaded by KIK, which appear to be visually identical and can be described as follows:

- a. File c7fb[...]6c80.mp4 is a 48 second video. The video depicts a minor female performing oral sex on an adult male in a stairwell. The video is shot point-of-view, (POV), style and the male's face is not visible. The male is wearing black pants and a dark colored top and jacket. The minor female has light brown hair and brown eyes. She is wearing a pink, long sleeve top and jeans and black shoes. The male ejaculates semen into the minor female's mouth at an undetermined point in the video. At approximately the 00:34 mark, the male removes his penis from the minor female's mouth and she stands up. At approximately the 00:38 mark, the minor female spits the male's semen onto the floor. The video ends at the 00:48 mark.
- b. File 5138[...]1973e.mp4 is a 48 second video. The video depicts a minor female performing oral sex on an adult male in a stairwell. The video is shot point-of-view, (POV), style and the male's face is not visible. The male is wearing black pants and a dark colored top and jacket. The minor female has light brown hair and brown eyes. She is wearing a pink, long sleeve top and jeans and black shoes. The male ejaculates semen into the minor female's mouth at an undetermined point in the video. At

approximately the 00:34 mark, the male removes his penis from the minor female's mouth and she stands up. At approximately the 00:38 mark, the minor female spits the male's semen onto the floor. The video ends at the 00:48 mark.

12. On August 14, 2024, Agent Jacobson spoke with U.S. Probation Officer Michael Macaluso, who is supervising UBER, who advised that UBER is currently on home detention and resides at the SUBJECT PREMISES with his grandmother, mother, and younger brother who is under 10 years of age and has intellectual disabilities. Officer Macaluso reported that he is aware that UBER's grandmother has a smartphone and UBER's brother has an iPad, both of which are supposed to be password protected and not used by UBER.

13. On August 16, 2024, a federal search and seizure warrant was signed by United States Magistrate Judge Michael J. Roemer for the SUBJECT PREMISES.

14. On August 22, 2024, your affiant along with Special Agents from HSI Buffalo, the CCSO, and the Jamestown Police Department executed the federal search and seizure warrant at the SUBJECT PREMISES. During the execution of the warrant, your affiant and HSI Task Force Officer Mark Jann conducted a post Miranda interview of UBER. During the interview, UBER stated that he did access a RCA tablet that he kept in his bedroom and that he used the tablet to download the KIK application where he joined an online forum with the username kittyboooooom32. UBER stated that in a forum he joined, numerous files were downloaded to his tablet device. Some of those files contained AI images of pre-teen children engaging in sex as well as videos of live pre-teen children engaging in sex. UBER stated that eventually he became the moderator of the forum and once that happened, all his files from KIK, including the videos of the pre-teen children engaging in sex were then distributed to around 99 users who were also members of the forum. UBER stated that he was aware that this would happen if he became the moderator of the forum. Your affiant did read the description of the video that was observed during the review of the CyberTipline Report described

above, and UBER stated that was one of the videos he possessed, and that same video was one of many files that was distributed to the 99 users on the forum. During the interview, UBER also admitted to using two other tablet devices in the residence to access the internet and download the KIK application.

15. Based upon the foregoing, I respectfully submit that I have probable cause to believe that **BRANDON G. UBER** has violated Title 18, United States Code, Section 2252A(a)(2)(A).



JACOB V. STAHLEY, Task Force Officer
Homeland Security Investigations

Sworn and subscribed telephonically
this 22st day of August 2024.



HON. MICHAEL J. ROEMER
United States Magistrate Judge